

Issued by the  
UNITED STATES DISTRICT COURT

SOUTHERN

DISTRICT OF

NEW YORK

CYBER CHAMPION INTERNATIONAL LIMITED  
V.

SUBPOENA IN A CIVIL CASE

CARLOS FALCHI, MARCOS FALCHI & XYZ COs.

Case Number:<sup>1</sup> 07 CV 9503 (LAK)

TO:

Home Shopping Network  
c/o IAC/Interactive Corp. d/b/a Home Shopping Network  
152 West 57th Street, New York, New York 10019

☐ YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME

☒ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION

LAZARUS & LAZARUS, P.C.  
240 Madison Avenue, 8th Floor, New York, NY 10016

DATE AND TIME

3/5/2008 10:30 am

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

See Appendix A attached hereto.

PLACE

LAZARUS & LAZARUS, P.C.  
240 Madison Avenue, 8th Floor, New York, NY 10016

DATE AND TIME

3/5/2008 10:30 am

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES

DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)

DATE

2/6/08

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

Harlan M. Lazarus (Attorneys for Plaintiff)  
LAZARUS & LAZARUS, P.C. located at 250 Madison Avenue, 8th Fl., New York, NY 10016

(See Rule 43, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), on next page)

<sup>1</sup> If action is pending in district other than district of issuance, state district under case number.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
CYBER CHAMPION INTERNATIONAL, LTD.,

Case No.: 07 CV 9503 (LAK)

Plaintiff,

- against -

CARLOS FALCHI, MARCOS FALCHI, and  
XYZ COMPANIES,

Defendants.  
-----X

**PLAINTIFF'S NOTICE TO TAKE DEPOSITION UPON ORAL  
EXAMINATION PURSUANT TO F.R.C.P. RULE 30(b)(6)**

PLEASE TAKE NOTICE that pursuant to the Federal Rules of Civil Procedure, Rule 30(b)(6), the testimony upon oral examination of HOME SHOPPING NETWORK, whose address is c/o IAC/ Interactive Corpo. d/b/a Home Shopping Network, 152 West 57<sup>th</sup> Street, New York, New York 10019, will be taken before a Notary Public who is not an attorney, or an employee of an attorney, for any party or prospective party herein and is not a person who would be disqualified to act as a juror because of interest, consanguinity or affinity, to be held and conducted at the office of Plaintiff's undersigned attorneys, on Wednesday, March 5, 2008, at 10:30 a.m. in the forenoon of that day with respect to evidence and material necessary in the prosecution-defense of this action. Said deposition will continue from day to day, if necessary, until completed.

PLEASE TAKE FURTHER NOTICE that said party to be examined is required to produce at such examination all documents, papers, records, reports, oral and/or hand-written, statements, correspondence, and the like, relating to the within action.

Respectfully submitted this 6 day of February, 2008.

**LAZARUS & LAZARUS, P.C.**

*Attorneys for Plaintiff, Cyber Champion International, Ltd.*

By: \_\_\_\_\_

**HARLAN M. LAZARUS (HML-0268)**

240 Madison Avenue, 8<sup>th</sup> Floor

New York, New York 10016

Tel. (212) 889-7400

**TO: MALDJIAN & FALLON LLC,**  
*Attorneys for Defendant, Marcos Falchi*  
Intellectual Property Counsel  
365 Broad Street, 3rd Floor  
Red Bank, NJ 07701  
**Attn: BRIAN GAYNOR, ESQ.**

- and -

**TO: BALLON STOLL BADER & NADLER, P.C.,**  
*Attorneys for Defendant, Carlos Falchi*  
1450 Broadway, 14th Floor  
New York, NY 10018-2268  
**Attn: DWIGHT YELLEN, ESQ**

## **APPENDIX "A"**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
CYBER CHAMPION INTERNATIONAL, LTD.,

Case No.: 07 CV 9503 (LAK)

Plaintiff,

- against -

CARLOS FALCHI, MARCOS FALCHI, and  
XYZ COMPANIES,

Defendants.

-----X

**APPENDIX "A"**

**DEFINITIONS**

1. The term "person" means natural persons, groups of natural persons acting as individuals, groups of natural persons acting in a collegial capacity (e.g., as a committee, board of directors, etc.), government ministries, agencies, offices, department or other units thereof, corporations, partnerships, associations, joint ventures, proprietorships, or any other incorporated or unincorporated business or social entity.

2. The term "document" means all written, printed, typed, recorded or graphic matters of every kind, type and description (whether inscribed by hand or mechanical, electronic, photographic or other means), including, but not limited to, all writings, letters, bank checks (front and back), bank statements, deposit slips (front and back), check stubs or registers, telegrams, teletype messages, telexes, cables, telephone messages, or other messages, interoffice communications, bills, logs, memoranda, reports, prospectuses,

proposals, studies, calendars, appointment books, journal and diary entries, and pamphlets, brochures, minutes, contracts, invoices, expense accounts, work sheets, notebooks, bulletins, notes, charts, tabulations, analyses, drawings, statistical or informational accumulations, any kind of records or meetings or conversations, film impressions, photographs, computer-recorded or computer-stored data, computer printouts, magnetic tapes, sound or mechanical reproductions, transcripts, affidavits, signed statements, travel vouchers, invoices, work orders and copies of documents which are not identical duplicates of the originals (e.g., because handwritten or "blind" notes appear thereon or are attached thereto) whether or not the originals are in your possession, custody or control.

3. The term "communications" means any transfer of information (in the form of facts, ideas, inquiries or otherwise), by written, oral or any other mean.

4. The term "concerning" means relating to, referring to, describing, evidencing or constituting.

#### DOCUMENT PRODUCTION REQUEST

1. Communications, documentation, records, and/or information of or concerning Carlos Falchi, or Marcos Falchi, directly or indirectly, or consisting in whole, or in part of the designation "FALCHI".
2. Communications, documentation, records, and/or information of or concerning

trademarks, service mark tradenames, in whole or in part, obtained by, from or through Carlos Falchi, or any person, firm, business or organization affiliated with Carlos Falchi, directly or indirectly, or consisting in whole, or in part of the designation "FALCHI".

3. Communications, documentation, records, and/or information of or concerning trademarks, service mark tradenames, in whole or in part, obtained by, from or through Marcos Falchi, or any person, firm, business or organization affiliated with Marcos Falchi, directly or indirectly, or consisting in whole, or in part of the designation "FALCHI".
4. Communications of or concerning any tradenames, service marks or trademarks, in whole or in part, incorporating, based on, or utilizing, in whole or in part, the name, trademark or tradename Carlos Falchi, directly or indirectly, or consisting in whole, or in part of the designation "FALCHI".
5. Communications, documentation, records, and/or information of or concerning the use, sale, manufacture, distribution, promotion, or advertisement of any product utilizing a trademark obtained by or through Carlos Falchi, directly or indirectly, or consisting in whole, or in part of the designation "FALCHI".
6. Communications, documentation, records, and/or information of or concerning any tradenames, service marks or trademarks, in whole or in part, incorporating, based on, or utilizing, in whole or in part, the name, trademark or tradename "CHI BY

FALCHI", directly or indirectly, or consisting in whole, or in part of the designation "FALCHI".

7. Communications, documentation, records, and/or information of or concerning any and all revenues received for or on account of the name, trademark or tradename "CHI BY FALCHI", or any other name, trademark, and/or tradename associated with Carlos Falchi and/or Marcos Falchi, directly or indirectly, or consisting in whole, or in part of the designation "FALCHI".
8. Communications, documentation, records, and/or information of or concerning any and all payments and/or remittances received from or on behalf of the name, trademark or tradename "CHI BY FALCHI", or any other name, trademark, and/or tradename associated with Carlos Falchi and/or Marcos Falchi, directly or indirectly, or consisting in whole, or in part of the designation "FALCHI".
9. Communications, documentation, records, and/or information of or concerning any and all of the sales of any products with the name, trademark or tradename "CHI BY FALCHI", or any other name, trademark, and/or tradename associated with Carlos Falchi and/or Marcos Falchi, directly or indirectly, or consisting in whole, or in part of the designation "FALCHI".
10. Communications, documentation, records, and/or information of or concerning any and all use, sale, manufacture, distribution, promotion, programing, or advertisement of any products with the name, trademark or tradename "CHI BY

FALCHI", or any other name, trademark, and/or tradename associated with Carlos Falchi and/or Marcos Falchi, or consisting in whole, or in part of the designation "FALCHI".

11. Communications, documentation, records, and/or information of or concerning any the customers/ purchasers of any products with the name, trademark or tradename "CHI BY FALCHI", or any other name, trademark, and/or tradename associated with Carlos Falchi and/or Marcos Falchi, directly or indirectly, or consisting in whole, or in part of the designation "FALCHI".
12. Communications, documentation, records, and/or information of or concerning the inventory of any products with the name, trademark or tradename "CHI BY FALCHI", or any other name, trademark, and/or tradename associated with Carlos Falchi and/or Marcos Falchi, directly or indirectly, or consisting in whole, or in part of the designation "FALCHI".
13. Communications, documentation, records, and/or information of or concerning the United States Patent and Trademark Office registration number 1,116,624, annexed hereto as *Exhibit A*, or consisting in whole, or in part of the designation "FALCHI".
14. Communications, documentation, records, and/or information of or concerning the United States Patent and Trademark Office registration number 1,477,810, annexed hereto as *Exhibit B*, or consisting in whole, or in part of the designation "FALCHI".

# **EXHIBIT A**

Int. Cl.: 18

Prior U.S. Cls.: 3 and 32

Reg. No. 1,116,624

United States Patent and Trademark Office

Registered Apr. 17, 1979

10 Year Renewal

Renewal Term Begins Apr. 17, 1999

TRADEMARK  
PRINCIPAL REGISTER

*Carlos Falchi*

DOUBLE N, INC. (DELAWARE CORPORATION)  
SUITE 1100  
8080 NORTH CENTRAL EXPRESSWAY  
DALLAS, TX 75205, BY ASSIGNMENT  
FALCHI, CARLOS (BRAZIL CITIZEN)  
NEW YORK, NY

FOR: HANDBAGS, POCKETBOOKS,  
PURSES, BRIEFCASE-TYPE PORTFOLIO.

LIO, KEY CASES, WALLETS, ATTACHE CASES, TOTE BAGS, AND LUGGAGE, IN CLASS 18 (U.S. CLS. 3 AND 32).

FIRST USE 9-15-1972; IN COMMERCE 9-15-1972.

SER. NO. 73-159,639, FILED 2-23-1978.

*In testimony whereof I have hereunto set my hand  
and caused the seal of The Patent and Trademark  
Office to be affixed on Apr. 4, 2000.*

COMMISSIONER OF PATENTS AND TRADEMARKS

Int. Cl.: 18

Prior U.S. Cl.: 3, 32

United States Patent and Trademark Office

Reg. No. 1,116,624

Registered Apr. 17, 1979

**TRADEMARK**

Principal Register

*Carlos Falchi*

Carlos Falchi  
333 Park Ave. S.  
New York, N.Y. 10010

For: HANDBAGS, POCKETBOOKS, PURSES,  
BRIEFCASE-TYPE PORTFOLIOS, KEY CASES, WAL-  
LETS, ATTACHE CASES, TOTE BAGS, AND LUG-  
GAGE, in CLASS 18 (U.S. CLS. 3 and 32).

First use on or before Sept. 15, 1972; in commerce on  
or before Sept. 15, 1972.

Ser. No. 159,639, filed Feb. 23, 1978.

## **EXHIBIT B**

Int. CL: 25

Prior U.S. CL: 39

Reg. No. 1,477,810

**United States Patent and Trademark Office** Registered Feb. 23, 1988

**TRADEMARK  
PRINCIPAL REGISTER**

**CARLOS FALCHI**

FALCHI, CARLOS (UNITED STATES CITIZEN)  
53 WEST 23RD STREET  
NEW YORK, NY 10010

FOR: LINE OF CLOTHING, APPAREL AND  
WOMEN'S FASHIONS, COATS, TOPS, SHORTS,  
PANTSUITS, JUMPSUITS, DRESSES, PANTS,  
SLACKS, BLOUSES, VESTS, RAINWEAR,  
JACKETS, SKIRTS, HEADWEAR, SWEATERS,

SCARVES, SWIMWEAR, HATS, BELTS, SHOES,  
IN CLASS 25 (U.S. CL. 39).

FIRST USE 5-1-1985; IN COMMERCE  
5-1-1985.

OWNER OF U.S. REG. NO. 1,116,624 AND  
OTHERS.

SER. NO. 663,330, FILED 5-28-1987.

DEBORAH S. COHN, EXAMINING ATTORNEY

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
CYBER CHAMPION INTERNATIONAL, LTD.,

Case No.: 07 CV 9503 (LAK)

Plaintiff,

- against -

CARLOS FALCHI, MARCOS FALCHI, and  
XYZ COMPANIES,

Defendants.

-----X

**SUBPOENA & NOTICE OF DEPOSITION TO**  
**HOME SHOPPING NETWORK**

LAZARUS & LAZARUS, P.C.

*Attorneys for Defendants*

240 Madison Avenue, 8<sup>th</sup> Floor

New York, New York 10016

Tel. (212) 889-7400

*Hml law @ att-net*  
*212 684 0314 Fax*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

\_\_\_\_\_  
CYBER CHAMPION INTERNATIONAL, LTD.,

Case No.: 07 CV 9503 (LAK)

Plaintiff,

- against -

CARLOS FALCHI, MARCOS FALCHI, and  
XYZ COMPANIES,

Defendants.

\_\_\_\_\_  
STATE OF NEW YORK )

)SS.:

COUNTY OF NEW YORK )

Carissa A. Schumacher, being duly sworn, deposes and says:

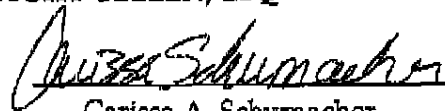
I am not a party to this action, I am over the age of 18 years and I reside in Somerset County, New Jersey.

On February 6, 2008, I mailed true copies of the following document(s):  
SUBPOENA IN A CIVIL CASE & PLAINTIFF'S NOTICE TO TAKE DEPOSITION  
UPON ORAL EXAMINATION PURSUANT TO F.R.C.P. RULE 30(b)(6) OF HOME  
SHOPPING NETWORK; enclosed in a sealed pre-paid wrapper for delivery, by  
depositing said true copies into an official depository under the exclusive care and  
custody of the United States Postal Service located within this City and State addressed  
to the following:

MALDJIAN & FALLON LLC,  
365 Broad Street, 3rd Floor  
Red Bank, NJ 07701  
Attn: BRIAN GAYNOR, ESQ.

BALLON STOLL BADER & NADLER, P.C.  
1450 Broadway, 14th Floor  
New York, NY 10018-2268  
Attn: DWIGHT YELLEN, ESQ

Sworn to before me this  
6<sup>th</sup> day of February, 2008

  
Carissa A. Schumacher

  
Notary Public

HARLAN M. LAZARUS  
Notary Public, State of New York  
No. 31-4723982  
Qualified in New York County  
Commission Expires February 28, 2011

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

CYBER CHAMPION INTERNATIONAL LTD.

Case No. 07 CV 9403 (LAK)

Plaintiff

against

CARLOS FALCHI, MARCOS FALCHI and  
XYZ COMPANIES

Defendants

**SUBPOENA & NOTICE OF DEPOSITION TO**  
**HOME SHOPPING NETWORK**

LAZARUS & LAZARUS, P.C.

Attorneys for Defendants

240 Madison Avenue, 8th Floor

New York, New York 10016

Tel: (212) 369-7400

To

Service of a copy of the within is hereby admitted.

Dated: \_\_\_\_\_

Attorney(s) for



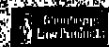
Place name of the state on top of the  
body of document. Example follows:



Attorney should use space  
for listing of my name line



Put true statement on  
the printed space here



STATE OF

COUNTY OF

I, the undersigned, an attorney admitted to practice law,

- ☐ Declaration  
by Attorney
- ☐ Verified  
Affirmation

certify that the within  
has been compared by me with the original and found to be true and complete and  
state that I am

the attorney's record to  
this within action, I have read the foregoing  
and know the contents thereof and as to the same I  
state to my own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as  
to those matters I believe it to be true. The reason this verification is made is as follows:

This execution of my paper as to all matters not stated upon my own knowledge are as follows:

affirming that the foregoing statements are true under the penalties of perjury.

Dated: 3/

STATE OF

COUNTY OF

- ☐ Individual  
Affirmation
- ☐ Corporate  
Affirmation

being truly sworn before me and as I am  
the foregoing  
my own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those  
matters I believe it to be true.

of  
corporation and a party in the within action, I have read the foregoing  
and know the contents thereof, and the same is true to my own knowledge  
except as to the matters therein stated to be alleged upon information and belief, and as to those matters I believe  
it to be true. This verification is made by me because the above party is a corporation and I am an officer thereof.  
The grounds of my belief as to all matters not stated upon my own knowledge are as follows:

Sworn to before me on

The name of the state must be printed herein.

STATE OF

COUNTY OF

I, age and reside at

Being sworn, say I am not a party to the action and over 18 years

On

I served the within

- ☐ By Mail
- ☐ Personal  
Delivery to  
Individual

by depositing a true copy thereof enclosed in a post paid wrapper in an official depository under the exclusive care  
and custody of the U.S. Postal Service within this state, addressed to each of the following persons at the last  
known address as of the date after each name

by delivering a true copy thereof personally to each person named below at the address indicated. I knew each person  
served to be the person mentioned and described in said papers as a party hereto.

COURT UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

COUNTY OF

CYBER CHAMPION INTERNATIONAL LIMITED

Plaintiff(s)

against  
CARLOS FALCHI, MARCOS FALCHI & XYZ COs.

Defendant(s)

CASE  
~~INDEX~~ No. 07 CV 9503 (LAK)

**AFFIDAVIT OF  
SERVICE OF SUBPOENA**

IN A CIVIL CASE, PLAINTIFF'S  
NOTICE TO TAKE DEPOSITION UPON  
ORAL EXAMINATION PURSUANT TO  
F.C.R.P. RULE 30(b)(6)

STATE OF NEW YORK, COUNTY OF NEW YORK

SS: The undersigned, being duly sworn, deposes and says: deponent is not a

party herein, is over 18 years of age and resides at CORONA, NEW YORK

That on 2/12/08 at 4:17 P.M., at 555 WEST 18TH STREET, NEW YORK, NEW YORK

deponent served the within subpoena on HOME SHOPPING NETWORK C/O IAC/INTERACTIVE CORP.  
SEE ABOVE STATED DOCUMENTS D/B/A HOME SHOPPING NETWORK

witness therein named,

INDIVIDUAL

1. ☐

by delivering a true copy to said witness personally; deponent knew the person so served to be the witness described in said subpoena.

CORPORATION

2. ☒

a DOMESTIC corporation, by delivering thereat a true copy to JANE CHUNG

personally, deponent knew said corporation so served to be the corporation witness and knew said individual to be MANAGING AGENT thereof.

SUITABLE AGE PERSON

3. ☐

by delivering thereat a true copy to a person of suitable age and discretion. Said premises is witness'—actual place of business—dwelling place—usual place of abode—within the state.

AFFIXING TO DOOR, ETC.

4. ☐

by affixing a true copy to the door of said premises, which is witness'—actual place of business—dwelling place—usual place of abode—within the state. Deponent was unable, with due diligence to find witness or a person of suitable age and discretion thereat, having called there

MAILING TO  
RESIDENCE  
USE WITH 3 OR 4

5A. ☐

Within 20 days of such delivery or affixing, deponent enclosed a copy of same in a postpaid envelope properly addressed to witness at witness' last known residence, at said envelope in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State.

MAILING TO  
BUSINESS  
USE WITH 3 OR 4

5B. ☐

Within 20 days of such delivery or affixing, deponent enclosed a copy of same in a first class postpaid envelope properly addressed to witness at witness' actual place of business, at in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State. The envelope bore the legend "Personal and Confidential" and did not indicate on the outside thereof, by return address or otherwise, that the communication was from an attorney or concerned an action against the witness.

DESCRIPTION  
USE WITH  
1, 2, OR 3

☒

<input type="checkbox"/> Male	<input type="checkbox"/> White Skin	<input checked="" type="checkbox"/> Black Hair	<input type="checkbox"/> White Hair	<input type="checkbox"/> 14-20 Yrs.	<input type="checkbox"/> Under 5'	<input type="checkbox"/> Under 100 Lbs.
<input checked="" type="checkbox"/> Female	<input type="checkbox"/> Black Skin	<input type="checkbox"/> Brown Hair	<input type="checkbox"/> Balding	<input checked="" type="checkbox"/> 21-35 Yrs.	<input type="checkbox"/> 5'0"-5'3"	<input checked="" type="checkbox"/> 100-130 Lbs.
	<input checked="" type="checkbox"/> Yellow Skin	<input type="checkbox"/> Blonde Hair	<input type="checkbox"/> Mustache	<input type="checkbox"/> 36-50 Yrs.	<input checked="" type="checkbox"/> 5'4"-5'8"	<input type="checkbox"/> 131-160 Lbs.
	<input type="checkbox"/> Brown Skin	<input type="checkbox"/> Gray Hair	<input type="checkbox"/> Beard	<input type="checkbox"/> 51-65 Yrs.	<input type="checkbox"/> 5'9"-6'0"	<input type="checkbox"/> 161-200 Lbs.
	<input type="checkbox"/> Red Skin	<input type="checkbox"/> Red Hair	<input type="checkbox"/> Glasses	<input type="checkbox"/> Over 65 Yrs.	<input type="checkbox"/> Over 6'	<input type="checkbox"/> Over 200 Lbs.

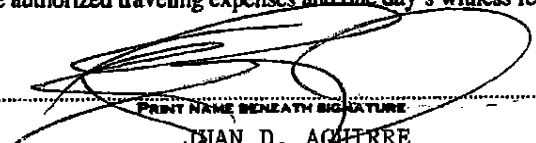
Other identifying features:

At the time of said service, deponent paid (tendered) in advance \$ 45.00

the authorized traveling expenses and one day's witness fee.

Sworn to before me on  
2/13/08

JOHN DICANIO  
Notary Public, State of New York  
No. 01DI497768  
Qualified in Westchester County  
Commission Expires Feb. 11, 2011

  
PRINT NAME BENEATH SIGNATURE  
JUAN D. AGUIRRE  
License No. 843839